

Since it appears that many LECs, whether intentionally or not, continue to bill some information service calls as interexchange service, some, and probably many, Pennsylvania telephone customers have been toll restricted or possibly even subject to suspension or termination of basic telephone service as a result of non-compliance. However, realizing the practical problems that may be associated with compliance, our objective in issuing this declaratory order is not to penalize LECs or threaten formal enforcement action but instead to assure that all Pennsylvania LECs are aware of their compliance obligations to assure that full compliance is forthcoming in the near future. Accordingly, through this declaratory order pursuant to 66 Pa. C.S. §331(f), we will clarify out interpretation of federal and state regulations and their application to Pennsylvania LECs. Additionally, we will require each Pennsylvania LEC to provide comprehensive information to the Commission, either independently or through the Pennsylvania Telephone Association, regarding the status of and plans for compliance. In this manner, the Commission can work with the regulated industry to assure implementation of required consumer protections in a timely manner. Only if full cooperation is not forthcoming will further Commission action directed to specific jurisdictional utilities be required; THEREFORE,

IT IS ORDERED:

1. That this declaratory order interpreting and removing uncertainty regarding billing and collection restrictions related

to information service charges, as fully discussed in the body of this order, is hereby issued.

2. That the Secretary serve this order on each local exchange carrier providing service in Pennsylvania and upon the Office of Consumer Advocate and Small Business Advocate.

3. That each local exchange carrier is hereby directed to provide comprehensive information to the Commission, either independently or through the Pennsylvania Telephone Association regarding the status of and plans for compliance as addressed within the body of this order within 30 days of the date this order is entered.

4. The contact person for this matter is Alan Kohler, Assistant Counsel, (717) 783-2810.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: June 30, 1994

ORDER ENTERED: JUL 1 1994

RULES

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows

1. The authority citation for Part 64 is revised to read as follows

AUTHORITY: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Subpart G of Part 64 is amended by removing Section 64.709 through Section 64.716, inclusive.

3. A new subpart O of Part 64 is added to read as follows:

Subpart O--Interstate Pay-Per-Call and 800 Services

Sec.

- | | |
|---------|---|
| 64.1501 | Definition of Pay-Per-Call Services. |
| 64.1502 | Limitations on the Provision of Pay-Per-Call Services. |
| 64.1503 | Termination of Pay-Per-Call Programs. |
| 64.1504 | Restrictions of the Use of 800 Numbers. |
| 64.1505 | Restrictions on Collect Telephone Calls. |
| 64.1506 | Number Designation. |
| 64.1507 | Prohibition on Disconnection or Interruption of Service for Failure to Remit Pay-Per-Call or Similar Service Charges. |
| 64.1508 | Blocking Access to 900 Service. |
| 64.1509 | Disclosure and Dissemination of Pay-Per-Call Information. |
| 64.1510 | Billing and Collection of Pay-Per-Call or Similar Service Charges. |
| 64.1511 | Forgiveness of Charges and Refunds. |
| 64.1512 | Involuntary Blocking of Pay-Per-Call Services. |
| 64.1513 | Verification of Charitable Status. |
| 64.1514 | Generation of Signalling Tones. |
| 64.1515 | Recovery of Costs. |

Authority: 47 U.S.C. 228.

Subpart O--Interstate Pay-Per-Call and 800 Services

§ 64.1501 Definitions

For the purposes of this subpart, the following definitions shall apply:

(a) Pay-per call service means any service

(1) In which any person provides or purports to provide

(A) Audio information or audio entertainment produced or packaged by such person;

(B) Access to simultaneous voice conversation services; or

C) Any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call.

(2) For which the call is assessed a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

3 Which is accessed through use of a 900 telephone number.

b) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

(b)(1) Presubscription or comparable arrangement means a contractual agreement in which

(i) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(ii) The service provider agrees to notify the consumer of any future rate changes;

(iii) The consumer agrees to utilize the service on the terms and conditions disclosed by the service provider; and

(iv) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers.

(2) Disclosure of a credit or charge card number, along with authorization to bill that number, made during the course of a call to an information service shall constitute a presubscription or comparable arrangement if the credit or charge card is subject to the dispute resolution procedures of the Truth in Lending Act and Fair Credit Billing Act, as amended, 15 U.S.C. § 1601 et seq. No other action taken by the consumer during the course of a call to an information service, for which charges are assessed, can be construed as creating a presubscription or comparable arrangement.

§ 64.1502 Limitations on the Provision of Pay-Per-Call Services.

Any common carrier assigning a telephone number to a provider of interstate pay-per-call service shall require, by contract or tariff, that such provider comply with the provisions of this subpart and of titles II and III of the Telephone Disclosure and Dispute Resolution Act (Pub. L. No. 102-556) (TDDRA) and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

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§ 64.1503 Termination of Pay-Per-Call Programs.

Any common carrier assigning a telephone number to a provider of interstate pay per-call service shall specify by contract or tariff that pay-per-call programs not in compliance with § 64.1502 shall be terminated following written notice to the information provider. The information provider shall be afforded a period of no less than seven and no more than 14 days during which a program may be brought into compliance. Programs not in compliance at the expiration of such period shall be terminated immediately.

§ 64.1504 Restrictions on the Use of 800 Numbers.

Common carriers shall prohibit, by tariff or contract, the use of any telephone number beginning with an 800 service access code, or any other telephone number advertised or widely understood to be toll free, in a manner that would result in

- (a) The calling party or the subscriber to the originating line being assessed, by virtue of completing the call, a charge for the call;
- (b) The calling party being connected to a pay-per-call service;
- (c) The calling party being charged for information conveyed during the call unless the calling party has a presubscription or comparable arrangement; or
- (d) The calling party being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products.

§ 64.1505 Restrictions on Collect Telephone Calls.

(a) No common carrier shall provide interstate transmission or billing and collection services to an entity offering any service within the scope of § 64.1501(a)(1) that is billed to a subscriber on a collect basis at a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call.

(b) No common carrier shall provide interstate transmission services for any collect information services billed to a subscriber at a tariffed rate unless the calling party has taken affirmative action clearly indicating that it accepts the charge for the collect service.

§ 64.1506 Number Designation.

Any interstate service described in § 64.1501(a)(1)-(2) shall be offered only through telephone numbers beginning with a 900 service access code.

§ 64.1507 Prohibition on Disconnection or Interruption of Service for Failure to Remit Pay-Per-Call or Similar Service Charges.

No common carrier shall disconnect or interrupt in any manner, or order the disconnection or interruption of, a telephone subscriber's local exchange or long distance telephone service as a result of that subscriber's failure to pay

- a. Charges for interstate pay-per-call service.
- b. Charges for interstate information services provided pursuant to a presubscription or comparable arrangement or
- (c) Charges, which have been disputed by the subscriber, for interstate tariffed collect information services.

§ 64.1508 Blocking Access to 900 Service.

(a) Local exchange carriers must offer to their subscribers, where technically feasible, an option to block access to services offered on the 900 service access code. Blocking is to be offered at no charge, on a one-time basis, to

(1) All telephone subscribers during the period from November 1, 1993 through December 31, 1993; and

(2) Any subscriber who subscribes to a new telephone number for a period of 60 days after the new number is effective.

(b) For blocking requests not within the one-time option or outside the time frames specified in paragraph (a) of this section, and for unblocking requests, local exchange carriers may charge a reasonable one-time fee. Requests by subscribers to remove 900 services blocking must be in writing.

(c) The terms and conditions under which subscribers may obtain 900 services blocking are to be included in tariffs filed with this Commission.

§ 64.1509 Disclosure and Dissemination of Pay-Per-Call Information.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call services shall make readily available, at no charge, to Federal and State agencies and all other interested persons:

- (1) A list of the telephone numbers for each of the pay-per-call services it carries;
- (2) A short description of each such service;
- (3) A statement of the total cost or the cost per minute and any other fees for each such service; and

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(4) A statement of the pay-per-call service provider's name, address, and business telephone number

5 Any common carrier assigning a telephone number to a provider of interstate pay-per-call services and offering billing and collection services to such provider shall

(1) Establish a local or toll free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by that carrier; and

(2) Provide to all its telephone subscribers, either directly or through contract with any local exchange carrier providing billing and collection services to that carrier, a disclosure statement setting forth all rights and obligations of the subscriber and the carrier with respect to the use and payment of pay-per-call services. Such statement must include the prohibition against disconnection of basic communications services for failure to pay pay-per-call charges established by § 64.1507, the right of a subscriber to obtain blocking in accordance with § 64.1508, the right of a subscriber not to be billed for pay-per-call services not offered in compliance with federal laws and regulations established by § 64.1510(a)(iv), and the possibility that a subscriber's access to 900 services may be involuntarily blocked pursuant to § 64.1512 for failure to pay legitimate pay-per-call charges. Disclosure statements must be forwarded to:

(i) All telephone subscribers no later than 60 days after these regulations take effect;

(ii) All new telephone subscribers no later than 60 days after service is established;

(iii) All telephone subscribers requesting service at a new location no later than 60 days after service is established; and

(iv) Thereafter, to all subscribers at least once per calendar year, at intervals of not less than 6 months nor more than 18 months.

§ 64.1520 Billing and Collection of Pay-Per-Call and Similar Service Charges.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call services and offering billing and collection services to such provider shall:

(1) Ensure that a subscriber is not billed for interstate pay-per-call services that such carrier knows or reasonably should know were provided in violation of the regulations set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA or any other federal law;

2) In any billing to telephone subscribers that includes charges for interstate pay-per-call service

3) Include a statement indicating that:

A) Such charges are for non-communications services

B) Neither local nor long distances services can be disconnected for non-payment although an information provider may employ private entities to seek to collect such charges

(C) 900 number blocking is available upon request; and

(D) Access to pay-per-call services may be involuntarily blocked for failure to pay legitimate charges;

(ii) Display any charges for pay-per-call services in a part of the bill that is identified as not being related to local and long distance telephone charges;

(iii) Specify, for each pay-per-call charge made, the type of service, the amount of the charge, and the date, time, and, for calls billed on a time-sensitive basis, the duration of the call; and

(iv) Identify the local or toll-free number established in accordance with § 64.1509(b)(1).

(b) Any common carrier offering billing and collection services to an entity providing interstate information services pursuant to a presubscription or comparable arrangement, or for interstate tariffed collect information services, shall, to the extent possible, display the billing information in the manner described in paragraphs (a)(2)(i)-(ii) of this section.

§ 64.1511 Forgiveness of Charges and Refunds.

(a) Any carrier assigning a telephone number to a provider of interstate pay-per-call services or providing transmission for interstate tariffed collect information services or interstate information services offered under a presubscription or comparable arrangement, and providing billing and collection services for such services, shall establish procedures for the handling of subscriber complaints regarding charges for those services. A billing carrier is afforded discretion to set standards for determining when a subscriber's complaint warrants forgiveness, refund or credit of interstate pay-per-call or information services charges provided that such charges must be forgiven, refunded, or credited when a subscriber has complained about such charges and either this Commission, the Federal Trade Commission, or a court of competent jurisdiction has found or the carrier has determined, upon investigation, that the service has been offered in violation of federal law or the regulations that are either set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA. Carriers shall observe